

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

**THE HON'BLE THE CHIEF JUSTICE MR.H.L.DATTU
&
THE HONOURABLE MR. JUSTICE K.M.JOSEPH**

TUESDAY, THE 13TH NOVEMBER 2007 / 22ND KARTHIKA 1929

WA.No. 2240 of 2004

AGAINST THE JUDGEMENT IN OP.29036/1999 Dated 28/07/2004

APPELLANT/1ST RESPONDENT:

E.P.CHANDRAN,
S/O. APPUTTY,
ELESDEMPOYILIL HOUSE,
P.O.VENGERI,
KOZHIKODE -10.

BY ADV. SRI.P.R.RAMACHANDRA MENON

RESPONDENTS/PETITIONER AND 2ND RESPONDENT:

1. M/S. HARRISONS MALAYALAM LTD.,
REPRESENTED BY ITS GENERAL MANAGER -
PERSONNEL & ADMINISTRATION,
WILLINGDON ISLAND,
COCHIN-3.

2. LABOUR COURT,
KOZHIKODE.

R1 BY ADV. SRI.A.K.JAYASANKAR NAMBIAR
R2 BY ADV. SRI.E.K.NANDAKUMAR

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 13/11/2007,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

H.L. DATTU, CJ. & K.M. JOSEPH, J.

WRIT APPEAL No. 2240 of 2004

Dated this the 13th day of November, 2007.

JUDGMENT

H.L.DATTU, CJ,

Questioning the correctness or otherwise of the order passed by the learned Single Judge in O.P. No.29036 of 1999 dated 28.7.2004, the workman is before us in this appeal.

2. There was a dispute between the workman and the Company. Since conciliation proceedings failed, the workman had approached the State Government. The State Government had referred the dispute to the Labour Court for adjudication. After receipt of the reference, the Labour Court had registered the dispute as I.D.No.26 of 1996.

3. The Labour Court, after considering the claim and the counter-claim filed by the parties and the evidence that was adduced before it, had answered the reference in favour of the workman. Accordingly, it had directed the management to reinstate the workman into service with all back wages and other service benefits. Aggrieved by the said order passed by the Labour Court, the management was before this court in O.P.29036 of 1999. The learned Single Judge by order dated 28.7.2004 has allowed the Original Petition and has set aside the award passed by the Labour Court.

4. Aggrieved by the said order passed by the learned Single Judge, the workman is before us in this appeal.

5. The matter was heard at length by us.

6. After hearing the matter, we thought it fit to suggest the learned counsel appearing for the management to give a fresh appointment to the workman in one of the estates managed by the respondent Company, if possible, very near to Calicut itself.

7. Sri. E.K.Nandakumar, as usual, in all fairness, would inform us, that the respondent Company/management is prepared to offer an alternate re-employment to the workman in one of the estates managed by the respondent Company and if it is possible very near to Calicut itself.

8. The suggestion and the offer made by Sri. E.K.Nandakumar is not seriously opposed by Sri. P.R.Ramachandra Menon, learned counsel for the workman, and further accepts the suggestion made by the learned counsel appearing for the respondent Company/management.

9. In view of the understanding between the learned counsel for the parties, at this stage, it may not be necessary for us to go into the correctness or otherwise of the orders passed by the learned Single Judge in O.P. 29036 of 1999 disposed of on 28.7.2004. Accordingly, we pass the following:

Order

(i) The Writ Appeal is disposed of.

(ii) The respondent Company shall re-employ Sri.E.P.Chandran/workman as Peon in one of the estates managed by the respondent Company. If it is possible, appoint him in one of the estates nearer to Calicut.

(iii). The workman shall produce the proof of age before the management.

(iv) This order of ours would not entitle the workman to claim any monetary or service benefits for the periods he was kept out of service by the management. The appellant will, however, be eligible for gratuity for the service rendered by him up to 28.8.1995 on the basis of the salary as on that date.

We place on record our deep appreciation to the efforts made by Sri.E.K.Nandakumar, learned counsel in bringing a quietus to this litigation.

Ordered accordingly.

H.L. DATTU,
CHIEF JUSTICE

K.M. JOSEPH,
JUDGE

sb/DK.